Equality of Opportunity and Freedom from Discrimination

MHR Connections

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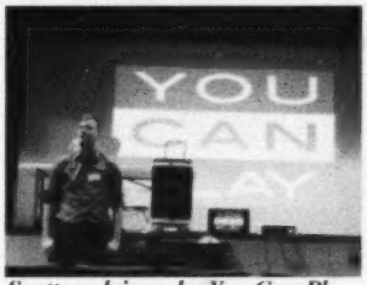
"He was amazing"

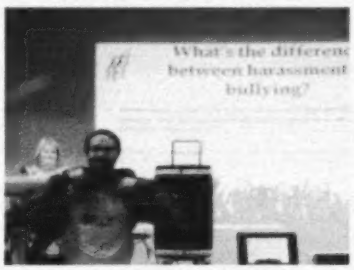
Scott Heggart's presentation at the 2015 Dream Conferences was inspirational wrote one of the students after attending the Shilo Dream Conference. "He was amazing and he showed what a normal kid can do, and how big of an impact the people who encouraged him can make. The students really connected with him."



Scott explains why You Can Play promotes equality for the LGBT Community.

Scott Heggart flew to Winnipeg from Ottawa to speak to the grades 7 and 8 students at the Human Rights Dream Conferences in Shilo and Winnipeg. Scott is a speaker for the You Can Play Project and #Bulliesnomore. He spoke about his own experiences as a gay athlete before he came out, his coming out story, and how You Can Play (YCP) was born.

Scott told the students that the closet is a very lonely place. "I started to withdraw and stopped playing sports. My love of sports was replaced by pain."



Teague Sherman reveals his T shirt "Don't be a Bully Be a Bro."

Scott decided to tell his family and friends that he was gay. The support he received changed his life. "Many contacted me through texts, phone messages and facebook, all saying they were proud of me and supported me."

Along the way he met Patrick Burke, who helped found the You Can Play Project, which is dedicated to fighting homophobia in sports. The son of NHL General Manager Brian Burke and a former scout for the Philadelphia Flyers, Patrick Burke used his NHL connections to help promote YCP in its early days after his brother, Brendan, was killed in a car accident not long after publicly announcing he was gay.

Scott never looked back, and the phrase, "If you can play, you can play" is now echoed throughout the National Hockey League and the Canadian Football League. If you would like to watch the amazing original You Can play video go to https://www.youtube.com/watch?v=SXoTRTAw6Dc.

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THE MANITOBA HUMAN RIGHTS COMMISSION
LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

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The Rights Connection
by Azim Jiwa - Executive Director

Two important decisions, both relating to Section 37.1 of *The Human Rights Code*, were released over the last couple of months. Once an adjudicator is appointed to hear the case on its merits, this section of *The Code* allows a respondent who makes a settlement offer to put its settlement offer before a different adjudicator.

The adjudicator determines whether the offer approximates what an adjudicator would award if the complaint were proven to be true at a full hearing on the merits of the case. The complainant must have already rejected the offer for the respondent to utilize this section.

If it is found that the offer is reasonable, the complaint proceedings are terminated and there is no hearing on the merits of the case. If it is found, however, that the offer is not reasonable, the originally appointed adjudicator will hear the case.

In one case, Eta Metaser had filed a complaint against the Jewish Community Campus of Winnipeg Inc. (JCC) alleging that she had been sexually harassed on an ongoing basis by her supervisor, and that management of JCC did not take reasonable steps to terminate the harassment.

The Respondent presented the Complainant with an offer of $5,250 in compensation for injury to dignity and assured the Complainant that it had taken some educational training around harassment and had implemented a policy. The Complainant was not offered any compensation for lost wages. The Complainant rejected the offer. Adjudicator Robert Dawson reviewed the offer under section 37.1 of *The Code*, finding that it was reasonable and therefore terminated the complaint proceedings.

The Commission applied for judicial review of Adjudicator Dawson's decision but the application was dismissed. Justice Pfuetzner found that Adjudicator Dawson's decision about the reasonableness of JCC's offer fell within a range of acceptable outcomes and therefore should not be overturned. One of the key arguments of the Commission was that damages for lost wages in a human rights context are not the same as those in an employment law context. On this point the Court agreed with the Commission. The *Metaser* decision also suggests that the Court will give great

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Over 160 students and teachers attended the Human Rights Dream Conference in Winnipeg.

Scott was not the only personality to speak about equality in sports. Blue Bomber and You Can Play Ambassador, Teague Sherman not only introduced Scott he also spoke to the students about fairness to all athletes regardless of sexual orientation.

In emphasizing how damaging silence can be, he asked the students if any had tried to keep a secret for a few days. Many replied yes. He then asked if they could imagine keeping a secret, as Scott did, for almost ten years. The powerful thought had impact on the students.

Both Scott and Teague stayed at both conferences and participated in many activities along with the students.

Keeping with the You Can Play theme, a new workshop was introduced. The "Let's Talk About It" workshop led by Human Rights Investigator Jesse Rock looked first at why slurs about other people can be so damaging. The openness of the discussion impressed both students and teachers.

One Student attending the Winnipeg conference wrote on his evaluation form, "I liked the workshop the most because it showed how all people are equal no matter their sexuality. I am bisexual myself and in that workshop it made me realise that it's okay to be who I am."

Another great session, many considered their favourite a workshop about service animals. During the "Animals at Work" session students and teachers alike heard from Human Rights Investigator Tom Ponech who is blind and has recently acquired a service dog and George Leonard, a master dog trainer with Manitoba Search and Rescue (MSAR), an organization which provides service dogs to Canadian Veterans, First Responders and the general public.

Tom Ponech and Lulu (left) and George Leonard and Benny during Animals at Work.

The session started with Tom who talked about his own journey and how getting his service dog broke down many barriers.

George Leonard spoke about types of dogs that are typically trained as service animals, the history of service animals, what animals are trained to do, and gave a demonstration of how his dog Benny reacts when she recognizes early symptoms of a seizure.

The lessons learned from Animals at Work included not to interfere with service animals, the variety of jobs dogs can do and the intensive training the dogs get.

The conference also had its unique and now legendary "Scenes from a Hat" workshop where students put on skits about various human rights situations.

Rounding out the conference was: the Fast Facts Session, which, in a fast paced and entertaining ten minutes, students learn about the "protected characteristics" found in *The Human rights Code*; the T shirt Dream project; the interactive life size Rights Race Board Game; and a unique take on Rock, Paper, Scissors, which is an exercise in the power of support.

The team at the Manitoba Human Rights Commission outdid themselves this year. Congratulations to those not only involved with the actual conferences, but also to those back at the office whose help make the 2015 Human Rights Dream Conference a success.

Visit our facebook page for more pictures of the Dream Youth Conference https://www.facebook.com/ManitobaHumanRightsCommission.

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deference to the decisions of our Adjudicators who are viewed as having specialized expertise in the area of human rights, and specifically in interpreting *The Human Rights Code*.

In another case, Peggy Damianakos complained that she was discriminated against by The University of Manitoba when they restructured their legal department and directly appointed her male subordinate to a position to which she was to report.

Before the adjudication hearing was scheduled to begin, the Respondent requested that another adjudicator be appointed to consider whether or not their offer was reasonable under section 37.1. Chief Adjudicator, Sherri Walsh reviewed the offer under section 37.1 of *The Code*, finding that it was not reasonable and therefore the complaint will proceed to a public hearing.

The Commission took the position that the offer was not reasonable because, if the complaint was proven to be true, the University's offer did not include any steps to secure future compliance with *The Code* and because it was not possible to determine if the $212,000 offered in lost wages (2 years wages) would put the Complainant in the position she would have been in, but for the discrimination. The Respondent has applied for a judicial review of this decision.

The Commission will rely on Justice Pfuetzner's decision in the *Metaser* case to argue that Adjudicator Walsh's decision falls within the range of acceptable outcomes and should not be overturned.